

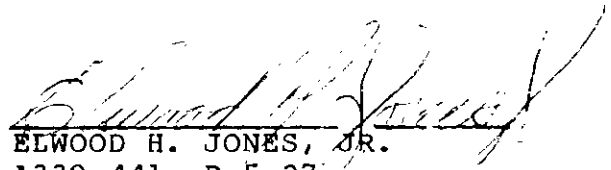
UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON

ELWOOD H. JONES, JR.,	:	CASE NO. 01-CV-564
	:	
PRO SE PETITIONER,	:	JUDGE THOMAS M. ROSE
	:	
VS.	:	CHIEF MAGISTRATE JUDGE MERZ
	:	
MARGARET BAGLEY, WARDEN,	:	
	:	
RESPONDENT.	:	THIS IS A DEATH PENALTY CASE

**PRO SE PETITIONER'S MOTION OPPOSING THE RESPONDENT'S MOTION
TO EXPAND THE RECORD IN THIS CASE WITH MATERIALS THE JURY IN
THIS CASE WAS NEVER GIVEN THE OPPORTUNITY TO HEAR**

PRO SE PETITIONER ELWOOD H. JONES JR. RESPECTFULLY REQUESTS THIS HONORABLE COURT TO ACCEPT THE PRO SE MOTION OPPOSING THE RESPONDENT'S REQUEST TO EXPAND THE RECORD WITH THIS SUPPOSEDLY NEWLY DISCOVERED EVIDENCE THAT HAS COME TO LIGHT 13½ YEARS LATER OF THE ORIGINAL STATEMENTS AND DESCRIPTION MS. RHODA NATHAN'S SON VALENTINE NATHAN GAVE BLUE ASH POLICE OFFICERS AND HAMILTON COUNTY PROSECUTORS MARK PIEPMIER AND SETH TIEGER, CONCERNING THE ALLEGED PENDANT STOLEN FROM HIS MOTHER. THE JURY IN THE PRO SE PETITIONER'S CASE WAS **NEVER** GIVEN THE OPPORTUNITY TO HEAR AND WEIGH NEWLY DISCOVERED EVIDENCE THE RESPONDENT IS NOW REQUESTING PERMISSION TO ENTER AND TO **CREATE A NEW RECORD OUTSIDE OF THE TRIAL COURT**, THROUGH MS. RHODA NATHAN'S SON TO CORRECT THE CONFLICTING STATEMENTS AND DESCRIPTIONS GIVEN BY THE VICTIM'S SON, CONCERNING THE ALLEGED PENDANT STOLEN FROM HIS MOTHER. THE REASONS ARE EXPANDED IN THE FOLLOWING MEMORANDUM IN SUPPORT.

RESPECTFULLY SUBMITTED,

A handwritten signature in black ink, appearing to read "Elwood H. Jones, Jr.", is written over a horizontal line.

ELWOOD H. JONES, JR.
A339-441 D-5-27
878 COITSVILLE-HUBBARD RD.
YOUNGSTOWN, OH 44505-4635

PETITIONER PRO SE

MEMORANDUM IN SUPPORT

PRO SE PETITIONER ELWOOD H. JONES, JR. HEREIN NOW RESPECTFULLY REQUESTS THIS HONORABLE COURT TO ACCEPT THIS MOTION OPPOSING THE RESPONDENT'S MOTION TO EXPAND THE RECORD.

A. THIS SELF-SERVING AFFIDAVIT OF VALENTINE NATHAN OF JULY 18, 2007, SUBMITTED AS NEWLY DISCOVERED EVIDENCE, PRESENTS NO DOCUMENTS CERTIFYING THE NAME OF THE PERSON OR ORIGINAL DESIGN AND PICTURES OF THE ALLEGED PENDANT MADE BY TILDEN JEWELERS.

B. THE TILDEN JEWELER'S ENVELOPE MARKED "SEIKO 11329," APPEARS TO BE SOME TYPE OF CLAIM CHECK FOR A REPAIRED SEIKO WATCH. ON THE TILDEN JEWELER'S ENVELOPE MR. VALENTINE NATHAN REFERS TO IN HIS AFFIDAVIT AS WELL TO WRITTEN INSTRUCTIONS FOR THE MAKING OF A PENDANT. THIS IS CLEARLY **NOT** EVIDENCE OF THE ALLEGED PENDANT STOLEN FROM HIS MOTHER ON SEPTEMBER 3, 1994, WITHOUT INCLUDING CERTIFICATE OF THE ORIGINAL DESIGN AND PICTURE OF THE ALLEGED PENDANT MADE FROM THIS RING NOW IN QUESTION.

THE RESPONDENT SEEMS TO DISMISS THE FACT UPON ASKING THIS HONORABLE COURT FOR PERMISSION TO EXPAND THE RECORD, ACCORDING TO A SUPPLEMENTARY REPORT AND HANDWRITTEN NOTES BY SGT. J. SCHAFER, ON SEPTEMBER 15, 1994, CONCERNING AN INTERVIEW CONDUCTED WITH ONE OF MS. NATHAN'S SONS AND DAUGHTER-IN-LAW, I.E. VAL AND ELKE NATHAN, FOUND WITHIN THE HAMILTON COUNTY PROSECUTOR'S FILES UPON THIS COURT GRANTING DISCOVER IN THIS CASE:

1. DURING THE SAID INTERVIEW WITH VALENTINE NATHAN ON 9-15-94; **IRA NATHAN STATED THAT THE PENDANT HAS NOT BEEN CUSTOM-CRAFTED FROM HIS MOTHER'S DIAMOND ENGAGEMENT RING AS ORIGINALLY THOUGHT.** HE WAS IN POSSESSION OF HIS MOTHER'S ENGAGEMENT RING AND **THE**

DIAMOND IN HER RING WAS LOST SEVERAL YEARS AGO. THREE (3) YEARS AGO HE HAD THE DIAMOND REPLACED IN HIS MOTHER'S RING HIS SISTER-IN-LAW'S PENDANT WAS NEVER MADE FROM HIS MOTHER'S ENGAGEMENT RING. IT WAS NOT CUSTOM-CRAFTED. THE PENDANT WAS BOUGHT AT A STORE IN PELLIAN BAY.

2. IRA NATHAN ALSO STATED DURING THE PHONE INTERVIEW ON SEPTEMBER 15, 1994, TO SGT. SCHAFER, SEVERAL YEARS AGO THE "DIAMONDS IN HIS MOTHER'S ENGAGEMENT RING WAS LOST, HE HAD THE DIAMOND REPLACED IN HIS MOTHER'S ENGAGEMENT RING THREE (3) YEARS AGO".


3. IRA NATHAN WAS IN POSSESSION OF HIS MOTHER'S ENGAGEMENT RING IN 1991, ACCORDING TO THE ABOVE STATEMENT IRA NATHAN GAVE SGT. SCHAFER ON SEPTEMBER 15, 1994, WHICH WOULD CLEARLY MAKE IT IMPOSSIBLE FOR THE ENGAGEMENT RING IN QUESTION, NOW TO BE APART OF VALENTINE NATHAN'S AFFIDAVIT.

C. THE RESPONDENT'S OWN ARGUMENT IN THEIR MOTION TO EXCLUDE WITNESSES FROM TESTIFYING AT THE EVIDENTIARY HEARING ON SEPTEMBER 24, 2007, ON PAGE #3 AND #6, CLEARLY EXPLAIN AND ILLUSTRATE IN THE SAID MOTION, "THE RING AND TILDEN JEWELER'S ENVELOPE HAVE NO DIRECT BEARING ON JONES' PRESENT HABEAS CLAIM OF BRADY AND INEFFECTIVE ASSISTANCE OF COUNSEL BEFORE THIS COURT." AS RESPONDENT MAINTAINED IN HER SUR-REPLY AND OPPOSITION TO MOTION FOR EVIDENTIARY HEARING, **THE EXISTING RECORD IS A SUFFICIENT** BASIS UPON WHICH THIS COURT CAN REACH A MERIT DETERMINATION REJECTING JONES' CLAIMS.

PRO SE PETITIONER ELWOOD H. JONES, JR. ASKS THIS HONORABLE COURT TO ACCEPT HIS MOTION OPPOSING THE RESPONDENT'S REQUEST TO CREATE A NEW RECORD THROUGH MS. NATHAN'S SON TO CORRECT THE

CONFLICTING STATEMENTS AND DESCRIPTIONS GIVEN BY THE VICTIM'S SON. IN THE INTEREST OF JUSTICE AND SET THIS CASE TO BE HEARD ON SEPTEMBER 24, 2007, WITHOUT ANY MORE DELAYS.

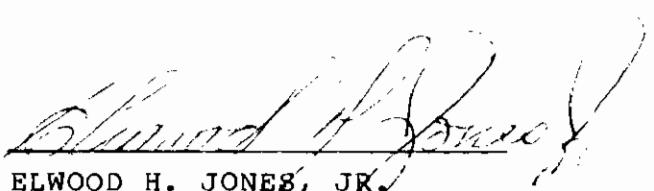
RESPECTFULLY SUBMITTED,


ELWOOD H. JONES, JR.

PETITIONER PRO SE

CERTIFICATE OF SERVICE

I HEREBY CERTIFY THAT A TRUE AND ACCURATE COPY OF THE PRO SE MOTION WAS SENT BY REGULAR U.S. MAIL TO MR. MICHAEL L. MONTA, MR. GARY CRIM, MR. MATTHEW C. HELLMAN, MS. SARAH A. HADACEK, ON THIS 10TH DAY OF AUGUST, 2007.


ELWOOD H. JONES, JR.